S.B. CR. MISC.BAIL APPLICATION NO.3161/2007
(Mohd. Ahasad alias Pinnu V/s State of Raj.)

DATE OF ORDER : 18.7.2007

HON'BLE MR. JUSTICE BHANWAROO KHAN

Mr. NK Bohra,for the applicant-petitioner.
Mr. Vishnu Kachhawaha, Public Prosecutor.

Heard learned counsel for the petitioner and learned Public Prosecutor for the State.

The accused is facing charge under Sections 302, 451, 323 and 34 IPC. The order of the learned Additional Sessions Judge reveals that the accused-persons have not submitted an application of bail under Section 437(1) Cr.P.C. before the concerned Magistrate and straight-way they have applied for bail before the learned Session Judge under Section 439 Cr.P.C.

The order passed by learned Additional Sessions Judge, Nagaur simply states that the application submitted by the accused-person cannot be decided under Section 439 Cr.P.C. Since the procedure of submitting the application under Sec. 437 Cr.P.C. has not been complied with and the order does not seem to be on merit.

Learned counsel pleaded that since the

challan has already been filed in the Court. This application should be treated under Section 439 Cr.P.C. The date of presentation of challan is not clear from the record and so-called order passed by the learned Additional Sessions Judge dated 15.6.2007 cannot be termed an order under Section 439 Cr.P.C. Learned counsel is directed to first get the order of concerned court under Sec. 439 Cr.P.C. and relevant provisions of Cr.P.C., thereafter, approached this Court.

With the above observations, the bail application filed by the petitioner under Sec. 439 Cr.P.C. is rejected.

(BHANWAROO KHAN),J.

RM/-